

ESTTA Tracking number: **ESTTA698393**

Filing date: **09/25/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Trek Bicycle Corporation
Granted to Date of previous extension	09/27/2015
Address	801 W. Madison Street Waterloo, WI 53594 UNITED STATES
Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1010 Lake Street, Suite 400 Oak Park, IL 60301-1135 UNITED STATES docket@merz-law.com, jwidmer@merz-law.com Phone:708-383-8801

Applicant Information

Application No	85795044	Publication date	03/31/2015
Opposition Filing Date	09/25/2015	Opposition Period Ends	09/27/2015
Applicant	Trek Medics International 2 Revere Rd. Riverside, CT 06878 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Downloadable computer software to send Short Message Service (SMS) to medical personnel in the fields of pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing temporary use of non-downloadable computer software to send Short Message Service (SMS) to medical personnel in the fields of pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation; design and development of a wireless communications system for transmission and reception of voice, data and video for emergency responders and members of local communities affected by natural disasters and other emergencies
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing internet-based database featuring medical information about pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1168276	Application Date	04/21/1980
Registration Date	09/08/1981	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1977/03/10 First Use In Commerce: 1977/03/10 Bicycles and Bicycle Frames		


U.S. Registration No.	1989281	Application Date	11/29/1994
Registration Date	07/23/1996	Foreign Priority Date	NONE
Word Mark	TREKKING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 bicycles		

U.S. Registration No.	1994479	Application Date	10/03/1994
Registration Date	08/20/1996	Foreign Priority Date	NONE
Word Mark	TREK 100		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 providing ride support vehicles in competitive and recreational events, namely bicycle tours, bicycle races, and triathlons		

U.S. Registration No.	2060274	Application Date	10/06/1994
Registration Date	05/13/1997	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1990/09/00 First Use In Commerce: 1990/09/00 cycling computers and head protective helmets for bicycle users		

	<p>Class 012. First use: First Use: 1993/01/00 First Use In Commerce: 1993/01/00 bicycles, bicycle frames, and a full line of parts and accessories for bicycles, namely, handlebars, [handlebar end extensions, handlebar stems,] seats, seat posts, seat post clamps and binder bolts, [tires, tire innertubes, pedals,] forks for supporting bicycles upon bicyclewheels, [bicycle suspensions, wheels and wheel rims,] water bottles, water bottle cages, bicycle mounted racks, [bicycle carrying racks for motor vehicles,] tools and tire repair kits for bicycles, lock holders, [audible warning devices, namely, bells for bicycles,] lighting systems for bicycles [and bicycle fenders]</p> <p>Class 028. First use: First Use: 1993/10/00 First Use In Commerce: 1993/10/00 exercise equipment, namely, stationary exercise cycles</p>		
--	--	--	--


U.S. Registration No.	2687012	Application Date	03/01/2000
Registration Date	02/11/2003	Foreign Priority Date	NONE
Word Mark	ETREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services, featuring a wide range of consumer-products, except footwear, all provided via the Internet</p>		

U.S. Registration No.	2742116	Application Date	10/04/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 012. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 bicycles and bicycle frames</p>		


U.S. Registration No.	2745442	Application Date	01/05/1998
Registration Date	08/05/2003	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel Class 028. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 padded and reinforced fingerless bicycling gloves

U.S. Registration No.	2876977	Application Date	09/27/2001
Registration Date	08/24/2004	Foreign Priority Date	NONE
Word Mark	TREKLITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, protective outer wear Class 025. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets		

U.S. Registration No.	3031210	Application Date	06/28/2004
Registration Date	12/20/2005	Foreign Priority Date	NONE
Word Mark	TREK TRAVEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Arranging travel tours featuring hiking, river rafting, whale watching, kayaking, and bicycling; cultural tours, namely, conducting sightseeing tours for others Class 041. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Sporting and cultural activities related to bicycling, namely, wine tastings and cultural tours, namely, guided tours of wineries Class 043. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Services for providing food and drinks and temporary lodging for those participating in bicycling activities and cultural activities related to bicycling, namely, hiking, river rafting, cultural tours, wine tastings, whale watching and kayaking		


U.S. Registration No.	3042834	Application Date	07/08/2004
Registration Date	01/10/2006	Foreign Priority Date	NONE


Word Mark	TREK UNIVERSITY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/10/01 First Use In Commerce: 2004/10/01 Instructional and training services in the field of retailing bicycles, bicycleclothing and bicycle accessories, and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair

U.S. Registration No.	3053077	Application Date	10/21/2003
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1993/01/31 First Use In Commerce: 1993/01/31 backpacks, [fanny packs,] textile totebags, [hip packs,] messenger bags, rack-trunks, saddle bags, bicycle seat packs, all purpose sports bags		

U.S. Registration No.	3066516	Application Date	11/06/2002
Registration Date	03/07/2006	Foreign Priority Date	NONE
Word Mark	TREKER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2002/11/00 First Use In Commerce: 2002/11/00 OFF-ROAD ALL-TERRAIN UTILITY VEHICLES		

U.S. Registration No.	3397739	Application Date	07/03/2007
Registration Date	03/18/2008	Foreign Priority Date	NONE
Word Mark	TREK BICYCLE STORE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1996/09/01 First Use In Commerce: 1996/09/01 retail stores featuring bicycles


U.S. Registration No.	3516346	Application Date	03/27/2008
Registration Date	10/14/2008	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet		


U.S. Registration No.	3576106	Application Date	07/31/2008
Registration Date	02/17/2009	Foreign Priority Date	NONE
Word Mark	TREK STOP		

Design Mark	TREK STOP
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/06/30 First Use In Commerce: 2008/06/30 retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels


U.S. Registration No.	3653169	Application Date	02/05/2008
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	TREK 100		
Design Mark	Trek 100		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		


U.S. Registration No.	3709688	Application Date	05/16/2008
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2009/08/10 First Use In Commerce: 2009/08/10 Powders used in the preparation of sports drinks and energy drinks

U.S. Registration No.	3789682	Application Date	08/05/2009
Registration Date	05/18/2010	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		

U.S. Registration No.	3798045	Application Date	02/05/2008
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2000/04/28 First Use In Commerce: 2000/04/28 Exercise equipment, namely, stationary trainers for use with bicycles

U.S. Registration No.	3900734	Application Date	06/17/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Electric Bikes		

U.S. Registration No.	3900782	Application Date	07/15/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2007/10/11 First Use In Commerce: 2007/10/11 Conducting workshops and seminars in properly fitting bicycles for individual bicyclists; Instruction in the field of properly fitting bicycles for individual bicyclists

U.S. Registration No.	3979036	Application Date	02/17/2010
Registration Date	06/14/2011	Foreign Priority Date	NONE

Word Mark	TREK
-----------	------

Design Mark	
-------------	---

Description of Mark	The mark consists of a stylized shield design, on which appears 4 vertical curved lines. The word "TREK" appears on the top border of the shield design.
Goods/Services	Class 025. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 Cycling apparel, namely, jerseys and shorts, hats, tshirts

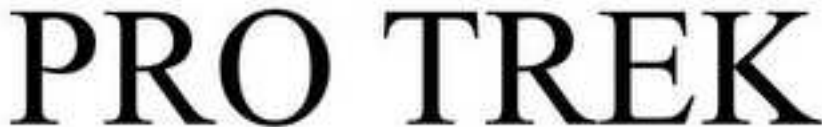
U.S. Registration No.	4021852	Application Date	11/10/2010
Registration Date	09/06/2011	Foreign Priority Date	NONE


Word Mark	TREK BICYCLES OF TUCSON
-----------	-------------------------

Design Mark	
-------------	--

Description of Mark	The mark consists of standard letters with the word "Trek" on top of the words "Bicycles of Tucson".
---------------------	--

Goods/Services	Class 035. First use: First Use: 2007/06/04 First Use In Commerce: 2007/06/04 Retail stores featuring bicycles
----------------	---

U.S. Registration No.	4077999	Application Date	11/18/2010
Registration Date	12/27/2011	Foreign Priority Date	NONE
Word Mark	PRO TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2011/05/01 First Use In Commerce: 2011/05/01 electronic wrist watches		

U.S. Registration No.	4372869	Application Date	07/15/2010
Registration Date	07/23/2013	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/01/31 First Use In Commerce: 2011/01/31 Health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Training services in the field of physical exercise		


U.S. Registration No.	4599850	Application Date	07/10/2013
Registration Date	09/09/2014	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>Trek</h1>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1995/08/01 First Use In Commerce: 1995/08/01 Trailers for bicycles

U.S. Registration No.	4608677	Application Date	12/10/2013
Registration Date	09/23/2014	Foreign Priority Date	NONE
Word Mark	TREK CARE		
Design Mark	<h1>Trek Care</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2013/08/01 First Use In Commerce: 2013/08/01 Administration of a customer loyalty program which provides discounts on replacement bicycle and electric bicycle partsnot covered by warranty Class 036. First use: First Use: 2013/08/01 First Use In Commerce: 2013/08/01 Warranty claims administration services, namely, processing warranty claims forbicycle and electric bicycle parts		

U.S. Registration No.	4647933	Application Date	11/13/2013
Registration Date	12/02/2014	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark	<h1>Trek</h1>		
Description of	NONE		

Mark	
Goods/Services	<p>Class 035. First use: First Use: 1995/12/15 First Use In Commerce: 1995/12/15 Provision of professional cycling services, namely, providing support services during cycling events in the nature of team marketing, rider marketing; arranging and conducting incentive reward programs to promote the sale of bicycles, cycling accessories, and cycling services; promotional sponsorship of individuals in sports and/or a sports team; organizing, arranging and conducting individual and team bicycle racing events for promotional purposes; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet</p> <p>Class 041. First use: First Use: 1995/12/15 First Use In Commerce: 1995/12/15 Organization of cycling events; organizing, arranging, and conducting individual and team bicycle racing events; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet</p>

U.S. Application No.	86674667	Application Date	06/25/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 0 First Use In Commerce: 0 Streaming of audio material on the internet; streaming of video material on the internet; electronic delivery of images and photos via a global computer network</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Entertainment services, namely, providing a website featuring multimedia material in the nature of video recordings, video stream recordings and podcasts in the field of cycling; providing news and information in the nature of statistics and trivia in the field of cycling</p>		

Attachments	<p>75933601#TMSN.png(bytes) 78171262#TMSN.png(bytes) 76599435#TMSN.png(bytes) 78447581#TMSN.png(bytes) 77221529#TMSN.png(bytes) 77433264#TMSN.png(bytes) 77536257#TMSN.png(bytes) 77388493#TMSN.png(bytes) 77476296#TMSN.png(bytes) 77797825#TMSN.png(bytes)</p>
-------------	---

	77388536#TMSN.png(bytes) 85065052#TMSN.png(bytes) 85085570#TMSN.png(bytes) 77937970#TMSN.png(bytes) 85173419#TMSN.png(bytes) 85179666#TMSN.png(bytes) 85085438#TMSN.png(bytes) 86006347#TMSN.png(bytes) 86139775#TMSN.png(bytes) 86117686#TMSN.png(bytes) 86674667#TMSN.png(bytes) 24322.Notice of Opposition - TREK MEDICS INTERNATIONAL.pdf(187137 bytes)
--	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jennifer A. Widmer/
Name	Jennifer A. Widmer
Date	09/25/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of U.S. Application Serial No. 85/795,044
For: TREK MEDICS INTERNATIONAL
Filed: December 5, 2012
Date of Publication: March 31, 2015

TREK BICYCLE CORPORATION)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
TREK MEDICS INTERNATIONAL)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer, Trek Bicycle Corporation ("Opposer"), a Wisconsin corporation with its principal place of business at 801 West Madison Street, Waterloo, Wisconsin 53594, believes it will be damaged by registration of the mark TREK MEDICS INTERNATIONAL, Serial No. 85/795,044, and hereby opposes the same, in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Trek alleges as follows:

1. Upon information and belief, Trek Medics International ("Applicant") is a Delaware corporation with its principal place of business at 2 Revere Road, Riverside, Connecticut 06878.

2. As evidenced by the publication of Serial No. 85/795,044 in the Official Gazette of March 31, 2015, Applicant seeks to register TREK MEDICS INTERNATIONAL (the "Opposed Mark") in connection with

"Downloadable computer software to send Short Message Service (SMS) to medical personnel in the fields of pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation" in Class 9;

"Providing temporary use of non-downloadable computer software to send Short Message Service (SMS) to medical personnel in the fields of pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation; design and development of a wireless communications system for transmission and reception of voice, data and video for emergency responders and members of local communities affected by natural disasters and other emergencies" in Class 42; and

"Providing internet-based database featuring medical information about pre-hospital and clinical emergency care, disaster medicine, preparedness, response, mitigation and recovery, deployment, medical evacuation/repatriation" in Class 44.

3. Upon information and belief, Applicant filed Serial No. 85/795,044 on December 5, 2012 based on intent to use the mark in commerce in connection with the claimed goods and services.

4. Since at least 36 years prior to the application filing date for the Opposed Mark, Opposer adopted and has continuously used the trade name "TREK" in connection with its business activities.

5. Opposer has invested substantial amounts of time, effort and money in protecting and policing its TREK trade name in the United States and throughout the world. As such, Opposer has extensive, non-registered statutory and common law rights in and to its TREK trade name, which Opposer uses in connection with its business activities.

6. Since at least 35 years prior to the application filing date for the Opposed Mark, Opposer adopted and has continuously used its TREK trademark in connection with bicycles, bicycle frames, and bicycle parts and accessories.

7. Opposer has expanded its trademark use of TREK and TREK-type marks to cover numerous additional products and services, including but not limited to, cycling computers, protective helmets and orienteering equipment and clothing for outdoor sporting activities, namely, protective outerwear.

8. Opposer is the owner of the following U.S. Trademark registrations:

Registration No. 1,168,276 for TREK for "bicycles and bicycle frames";

Registration No. 1,989,281 for TREKKING for "bicycles";

Registration No. 1,994,479 for TREK 100 for "providing ride support vehicles in competitive and recreational events, namely, bicycle tours, bicycle races, and triathlons";

Registration No. 2,060,274 for TREK for "exercise equipment, namely, stationary exercise cycles," "bicycles," "cycling computers," and "head protective helmets for bicycle users," among other things;

Registration No. 2,687,012 for ETREK for "online retail and wholesale store services, featuring a wide range of consumer products, except footwear, all provided via the Internet";

Registration No. 2,742,116 for TREK Stylized for "bicycles and bicycle frames";

Registration No. 2,745,442 for TREK for "bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel" and "padded and reinforced fingerless bicycling gloves";

Registration No. 2,876,977 for TREKLITE for "orienteering equipment and clothing for outdoor sporting activities, namely protective outer wear" and "orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets";

Registration No. 3,031,210 for TREK TRAVEL for "travel arrangement of bicycling tours," "sporting and cultural activities related to bicycling," and "services for providing food and drinks, temporary accommodation, all related to bicycling activities";

Registration No. 3,042,834 for TREK UNIVERSITY for "instruction and training services, in the field of retailing bicycles, bicycle clothing and bicycle accessories; and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair";

Registration No. 3,053,077 for TREK for "backpacks, textile tote bags, messenger bags, rack trunks, saddle bags, bicycle seat packs, and all purpose sports bags";

Registration No. 3,066,516 for TREKER for "off road all-terrain utility vehicles";

Registration No. 3,397,739 for TREK BICYCLE STORE for "retail stores featuring bikes";

Registration No. 3,516,346 for TREK for "online retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet";

Registration No. 3,576,106 for TREK STOP for "retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels";

Registration No. 3,653,169 for TREK 100 for "charitable fund raising services by means of bicycle rides and entertainment events";

Registration No. 3,709,688 for TREK for "powders used in the preparation of sports drinks and energy drinks";

Registration No. 3,789,682 for TREK for "charitable fund raising services by means of bicycle rides and entertainment events";

Registration No. 3,798,045 for TREK for "exercise equipment, namely, stationary trainers for use with bicycles";

Registration No. 3,900,734 for TREK for "electric bikes";

Registration No. 3,900,782 for TREK for "conducting workshops and seminars in properly fitting bicycles for individual bicyclists; Instruction in the field of properly fitting bicycles for individual bicyclists";

Registration No. 3,979,036 for TREK and Design for "cycling apparel, namely jerseys and shorts, hats, t-shirts";

Registration No. 4,021,852 for TREK BICYCLES OF TUCSON for "retail stores featuring bicycle";

Registration No. 4,077,999 for PRO TREK for "electronic wrist watches";

Registration No. 4,372,869 for TREK for "health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily

living; Training services in the field of physical exercise";

Registration No. 4,599,850 for TREK for "trailers for bicycles";

Registration No. 4,608,677 for TREK CARE for "administration of a customer loyalty program which provides discounts on replacement bicycle and electric bicycle parts not covered by warranty" and "warranty claims administration services, namely, processing warranty claims for bicycle and electric bicycle parts"; and

Registration No. 4,647,933 for TREK for "provision of professional cycling services, namely, providing support services in the nature of team marketing, rider marketing; arranging and conducting incentive reward programs to promote the sale of bicycles, cycling accessories, and cycling services; promotional sponsorship of individuals in sports and/or a sports team; organizing, arranging and conducting individual and team bicycle racing events for promotional purposes; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet" and "organization of cycling events; organizing, arranging, and conducting individual and team bicycle racing events; information relating to all the aforementioned services provided on-line from a computer database or via a helpline or the internet."

These registrations are valid, subsisting, uncanceled and are evidence of Opposer's exclusive right to use TREK and the other identified marks in commerce in connection with the goods and services specified in the registrations.

9. Opposer also owns U.S. Trademark Application Serial No. 86/674,667 for TREK for "streaming of audio material on the internet; streaming of video material on the internet; electronic delivery of images and photos via a global computer

network" and "entertainment services, namely, providing a website featuring multimedia material in the nature of video recordings, video stream recordings and podcasts in the field of cycling; providing news and information in the nature of statistics and trivia in the field of cycling."

10. Since at least as early as the respective dates of first use stated in its applications and registrations, Opposer has used its marks in connection with the sale of goods and services covered by those registrations. Such use has not been abandoned, and the public has come to associate Opposer's goods and services with the TREK trademark and trade name.

11. Prior to the application filing date for the Opposed Mark, Opposer's TREK mark had become famous for Opposer's goods and services.

12. Applicant has no license, consent or permission from Opposer to use or register the Opposed Mark.

13. The Opposed Mark so resembles Opposer's TREK mark, trade name and other TREK-formative marks that it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, the Opposed Mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into

believing that the goods and services in Serial No. 85/795,044 originate with Opposer or otherwise are authorized, licensed or sponsored by Opposer.

14. By reason of all the foregoing, Opposer will be damaged by the registration of the Opposed Mark for the goods and services covered by Serial No. 85/795,044, because registration of the mark would be in violation of Opposer's trademark and trade name rights.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained in favor of Opposer and that Serial No. 85/795,044 be denied registration. Trek submits herewith its payment of the \$900 filing fee, as required by 37 C.F.R. §2.6(a)(17).

Respectfully submitted,

TREK BICYCLE CORPORATION



Date: September 25, 2015 By: _____

Mary Catherine Merz
Jennifer A. Widmer
MERZ & ASSOCIATES, P.C.
Attorneys at Law
1010 Lake Street, Suite 400
Oak Park, Illinois 60301
(708) 383-8801 (phone)
(708) 383-8897 (fax)
docket@merz-law.com

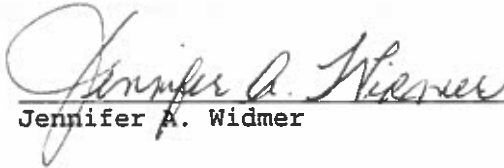
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served on Applicant by First Class Mail this September 25, 2015, addressed to:

Julie Beth Albert
Baker Botts LLP
30 Rockefeller Plaza
44th Floor
New York, NY 10112-4498

By:


Jennifer A. Widmer